अपील दायर की जाए और स्थगन आदेश प्राप्त किया जाए और सारे इंस्टीट्यूशंस को डायरेक्टिव्ज इश्यू की जायें कि जो आरक्षण की यथास्थिति एडमीशंस व अपार्टमेंट के बारे में बनी हुई है, उसमें किसी प्रकार की रुकावट न डाली जाए। धन्यवाद।

THE COAL MINES (NATIONALISATION) AMENDMENT BILL, 1992

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Now, introduction of Bill; the Coal Mines (Nationalisation) Amendment Bill, 1992.

श्री जगदीश प्रसाद माथुर (उत्तर प्रदेश) : श्रीमन्, मैं इस बिल के इंट्रोडक्शन का विरोध करना चाहता हूं। इस बिल के इंट्रोडक्शन पर वैधानिक स्थिति को ध्यान म रखत हुए विरोध करना चाहता हूं।

श्रीमन्, इस बिल के पीछे फायनेंशियल मेमोरेंडम दिया गया है। फायनेंशियल मेमोरेंडम के हैडिंग से ही यह सिद्ध हो जाता है। लेकिन, अन्त में कहा गया है—

> "...it will be necessary to eventually strengthen the Coal Controller's Organisation. The exact financial implications can be worked out only after an assessment is made on the responses from the private sector are received. For the present, no increase in expenditure is anticipated."

मतलब यह है कि केवल धोखाधड़ी की गई है। खर्चा होगा।...

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): That is all right. You have made your point.

SHRI JAGDISH PRASAD MATHUR: I have to quote the Constitution.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): I have seen it. You have made your point.

SHRI JAGDISH PRASAD MATHUR: No, I am making my point. I would like to know whether it is a Money Bill or a Finance Bill केवल इतना कहकर कि अभी हमें लगता है कि खर्चा बढ़ेगा नहीं, यह केवल ढकना है।

आर्टिकल 109 कहता है—

> "A Money Bill shall not be introduced in the Council of States."

आप कहेंगे कि यह मनी बिल नहीं है, फाइनेन्स बिल है।

Now I come to Article 117:

> "A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States."

Whether it is a Money Bill or a Finance Bill, it cannot be introduced in this House. This should be introduced only in the Lok Sabha. Moreover, the Speaker will decide whether it is a Money Bill or a Finance Bill.

तो मैं यह पूछना चाहता हूं मंत्री महोदय से, कि क्या स्पीकर से इन्होंने क्लीयरेन्स ले ली कि यह मनी बिल नहीं है? फिर, मैं पूछना चाहता हूं, राष्ट्रपति से क्या उन्होंने रिकमण्डेशन ले ली है कि इसको इण्टरोड्यूस किया जाए। मेरा कहना है कि यह बिल जो है, आर्टिकल 109 और 117 का विरोध करता है। इसलिए इन्हें कोई अधिकार नहीं है कि बिल यहां पर इंटरोड्यूस किया जाए।

SHRI SUKOMAL SEN (West Bengal): The question raised by Mr. Mathur is quite valid, whther it is

[Shri Sukomal Sen]

a Money Bill or a Finance Bill. First of all that has to be decided. You have to give your ruling on that point. This Bill cannot be introduced in this House, this should be introduced in the other House. Secondly, this Bill intends selective privatisation of the coal mines. Coal is a nationalised industry. This Bill seeks to privatise a part of it. On principle, I am against the privatisation of...

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): That is a different matter. There is nothing...

SHRI SUKOMAL SEN: This is my argument. So, this Bill is against the interest of the country and technically also it is defective. That is why I oppose this Bill.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Mr. Minister, do you want to say something?

SHRI MURLIDHAR CHANDRAKANT BHANDARE (Maharashtra): Sir, I want to say something. I think, it is quite erroneous to say that just because there appears in the Bill a Financial Memorandum, this is a Money Bill.

Now, a Money Bill undoubtedly cannot be introduced in this House. It has to be introduced in the Lok Sabha. Kindly look at Article 110 which gives the definition of a Money Bill.

"For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

(a) the imposition, aboition, remission, alteration regulation of any tax;

(b) the regulation of the borrowing of money the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;

(c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such fund;

(d) the appropriation of moneys out of the Consolidated Fund of India;

(e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the Consolidate Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or

(g) any matter incidental to any of the matters specified in subclauses (a) to (f).

A mere reading will make it clear that the Bill does not fall under any of the provisions of a Money Bill. Therefore, the introduction is proper.

SHRI JAGDISH PRASAD MATHUR: I referred to article 110(e) which says that declaring of any expenditure. यही मैं कह रहा हूं कि एक्सपेंडीचर है। . . . . (व्यवधान)

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): I will give my ruling ... (Interruptions)...

SHRI JAGDISH PRASAD MATHUR: You cannot play a fraud. Let me explain... (Interruptions)...

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): You have already

explained. Yes, Mr. Minister...(Interruptions)...

THE MINISTER OF STATE OF THE MINISTRY OF COAL WITH ADDITIONAL CHARGE OF THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI P. A. SANGMA): Sir, I am grateful to Mr. Bhandare who had come to my rescue by explaining the Constitutional provision...(Interruptions)...

SHRI JAGDISH PRASAD MATHUR: He has explained only the Money Bill. What about article 117? He has explained only one part of it. What about the Finance Bill? The Finance Bill cannot be introduced in this House...(Interruptions)...

SHRI P. A. SANGMA: The Constitutional provision lays down that a Money Bill cannot be introduced in this House. A Bill which is a Money Bill cannot be introduced in the Upper House. It has to be introduced in the Lower House. Article 117 of the Constitution of India clearly lays down as to what is a Money Bill. If you look at article 117 or rather 110 which my learned friend just read out, it is very clear that this Bill does not come under the purview of a Money Bill. In fact the provision says, "dealing with all or any of the following matters:—(a) the imposition, abolition, remission, alteration or regulation of any tax." Now, clause 110(2) says, even if it is an imposition of tax by the local authorities that will not be deemed to be a Money Bill. This particular Bill merely deals with empowering the Government of India to allow private coal mining for captive end use for purpose of power generation and Iron and Steel sector or any other sector which the Government may from time to time notify. Therefore, it has nothing to do with a Money Bill...(Interruptions).

SHRI JAGDISH PRASAD MATHUR: What about the Finance Bill? Article 117 says it is a Finance Bill. The very heading shows that it is a Finance Bill and have you taken the permission of the President or not?...(Interruptions)...

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Financial Memorandum will be there in all the Bills. There will be some expenditure and so I am giving my ruling that I am satisfied...(Interruptions)...

SHRI JAGDISH PRASAD MATHUR: He has not replied to me regarding my charge. He is only referring to 109 and I am referring to article 117...(Interruptions)...May I ask the hon. Minister whether he is going to meet the expenditure from the Consolidated Fund of India? From where are you going to pay for it?...(Interruptions)...The very heading shows that it is a Finance Bill. How can you go back on your own words?

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): You look at article 117. I will read a paragraph.

SHRI JAGDISH PRASAD MATHUR: Both the learned Members have not explained the procedure. If this is not a Money Bill, why have they put in this financial memorandum?

SHRI P. A. SANGMA: Let me explain. Article 110(1)(e) which the hon. Member has referred to says, "the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure". This financial memorandum only deals with the restructuring of an office which is already in existence. We will administer the implementation of the amendment. What we are saying is that as of today, we do not expect any additional expenditure on the office of the Coal Controller. But it may so happen that sometimes you may have to add one L.G. assistants or one U.G. assistants more. But we do not want any additional funds from the Government of India.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): I am satisfied that this is not a Money Bill...(Interruptions)

SHRI JAGDISH PRASAD MATHUR: Have you got the recommendation of the President?

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): It is not necessary...(Interruptions)

SHRI JAGDISH PRASAD MATHUR: It is a very important issue. You cannot give your ruling like this.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): It is not necessary now. It is only necessary at the time of consideration. So I will ask the Minister to introduce the Bill.

SHRI JAGDISH PRASAD MATHUR: Has the President's recommendation been obtained or not?

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): It is not received at this stage. I am satisfied...(*Interruptions*)

SHRI JAGDISH PRASAD MATHUR: Let me ask the Minister...

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): I should give my ruling and not the Minister and I will have to be satisfied.

SHRI P. A. SANGMA: The President's recommendation is not required because it is not a Money Bill. Where is the question of having the President's recommendation?

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Now the Minister to move the Bill.

SHRI P. A. SANGMA: Sir, I beg to move for leave to introduce a Bill further to amend the Coal Mines (Nationalisation) Act, 1973.

The question was put and the motion was adopted.

SHRI P. A. SANGMA: Sir, I introduce the Bill.

THE Jammu and Kashmir State Legislature (Delegation of Powers) Bill, 1992

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI M. M. JACOB): Sir, I beg to move:

> "That the Bill to confer on the President the power of the Legislature of the State of Jammu and Kashmir to make laws as passed by the Lok Sabha, be taken into consideration."

The House is aware that the Proclamation dated 18-7-1990 made by the President under article 356 of the Constitution in relation to the State of Jammu and Kashmir, inter alia, provides that the power of the State Legislature shall be exercisable by or under the authority of Parliament. Under article 357(1)(a) of the Constitution, it is permissible for Parliament to confer on the President the power of the Legislature of the State to make laws and to authorise him to delegate, subject to such conditions as he may think fit to impose, the power so conferred to any other authority specified by him in that behalf. There are a number of legislative proposals pertaining to Jammu and Kashmir which are required to be re-enacted before 18-7-1992. In view of the otherwise busy schedule of business of the two Houses, it may not be possible for Parliament to deal with various legislative measures that may be necessary in respect of Jammu and Kashmir. The Bill, therefore, seek to confer on the President the power of the State Legislature to make laws in respect of